

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

THERESA WILMOTH,

Plaintiff,

V.

Case No.: 3:22-cv-63

TEXAS ROADHOUSE, :
TEXAS ROADHOUSE, LLC :
TEXAS ROADHOUSE HOLDINGS, LLC, :
TEXAS ROADHOUSE MANAGEMENT CORP., :
TEXAS ROADHOUSE, INC., and :
JOHN DOE COMPANY :

Defendants.

NOTICE OF REMOVAL

Defendants Texas Roadhouse, Texas Roadhouse, LLC, Texas Roadhouse Holdings LLC, Texas Roadhouse Management Corp, and Texas Roadhouse, Inc. (“Defendants”) by and through counsel, hereby give notice of removal of the above action from the Circuit Court of the City of Richmond, Virginia (“Circuit Court”), to the United States District Court for the Eastern District of Virginia, Richmond Division, pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446. As set forth below, this Court has original diversity jurisdiction over this action pursuant to Section 28 U.S.C. § 1332. All requirements for removal of this action are met through the allegations contained in the pleadings filed in the Circuit Court and in this Notice of Removal.

In support of this Notice of Removal, Defendants state as follows:

1. There is pending in the Circuit Court of The City of Richmond, Virginia, a Complaint styled THERESA WILMOTH v. TEXAS ROADHOUSE et al, Case No. C760CL21005562-00 (the “State Court Action”). The Complaint in the State Court Action was filed on or about December 29, 2021. A copy of the Complaint is attached hereto as **Exhibit A**.

2. Defendants received and were served with the Complaint in the State Court Action on January 4, 2022.

3. Defendants filed their Responsive Pleading on January 25, 2022 in the Circuit Court, but no further proceedings have been had in the State Court Action. A copy of the above referenced responsive pleadings is attached hereto as **Exhibit B**.

4. This Notice of Removal is filed within thirty days of the date upon which Defendants first received a copy of the Complaint and is therefore timely pursuant to 28 U.S.C. § 1446(b).

5. The State Court Action is properly removed under 28 U.S.C. § 1441(a), because the State Court Action is subject to the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332, as explained below.

6. Upon information and belief, Plaintiff is an individual residing in and a citizen of North Carolina.

7. Defendants Texas Roadhouse and Texas Roadhouse, LLC are nonexistent entities.

8. Defendant Texas Roadhouse Holdings LLC's sole member is Texas Roadhouse, Inc. Texas Roadhouse, Inc. is incorporated under the laws of the State of Delaware with its principal places of business in Louisville, KY.

9. Defendant Texas Roadhouse, Inc. is incorporated under the laws of the State of Delaware with its principal places of business in Louisville, KY.

10. Defendant Texas Roadhouse Management Corp. is incorporated under the laws of the Commonwealth of Kentucky, with its principal place of business in Louisville, KY.

11. Defendant John Doe is a party sued under a fictitious name and his citizenship shall be disregarded for purposes of determining diversity jurisdiction. 28 U.S.C. § 1441(b)(1).

12. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interests or costs. The Complaint seeks compensatory damages in the amount of \$74,000. However, on March 29, 2021 Plaintiff demanded \$100,000 to settle her claim, identifying \$10,476.65 in medical bills, but denying any claim for lost wages “at this time.” See email and demand letter attached hereto as **Exhibit C**. At the time of filing her Complaint, which was after Plaintiff made a \$100,000 demand, Plaintiff alleged that she sustained “serious and permanent injuries” and added a claim for past and future lost wages. Compl. ¶¶ 23, 29, and 37; See Thomas v. Seaworld Parks & Entm't LLC, 2019 U.S. Dist. LEXIS 229945 (E.D. Va. 2019); Ford-Fisher v. Stone, 2007 U.S. Dist. LEXIS 4354 (E.D. Va. 2007). Dugdale v. Nationwide Mut. Fire Ins. Co., 2006 U.S. Dist. LEXIS 17471 (E.D. Va. 2006). Schwenk v. Cobra Mfg. Co., 322 F. Supp. 2d 676 (E.D. Va. 2004);

13. This action is properly removed on grounds of diversity jurisdiction because (a) complete diversity of citizenship exists between Plaintiff and all named Defendants and (b) the amount in controversy herein exceeds the sum or value of \$75,000, exclusive of interest and costs.

14. Written notice of the filing of this Notice of Removal will promptly be given to Plaintiff and the Clerk of the Circuit Court of The City of Richmond, Virginia, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants Texas Roadhouse, Texas Roadhouse, LLC, Texas Roadhouse Holdings LLC, Texas Roadhouse Management Corp, and Texas Roadhouse, Inc. respectfully request that this case proceed before this Court as an action properly removed.

Jessica G. Relyea /s/
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Notice of Removal was mailed, first class, postage prepaid, this 1st day of February, 2022, to:

Emmet D. Alexander, Esq.
Michael R. Krol, Esq.
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